

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

INES BRIENO, ESMERALDO LEON, and
FRANCISCO VARGAS AGUIRRE,
Individually and on Behalf of all
Others Similarly Situated,

Plaintiffs,

- against -

MEMORANDUM & ORDER
09-CV-4252 (JS)(AKT)

USI SERVICES GROUP, INC., ULTIMATE
SERVICES INC., and FRED GOLDRING,

Defendants.

-----X

APPEARANCES:

For Plaintiffs: Jeffrey Kevin Brown, Esq.
Leeds Morelli & Brown, P.C.
One Old Country Road, Suite 347
Carle Place, NY 11514

Lloyd Robert Ambinder, Esq.
Leonor H. Coyle, Esq.
Virginia and Ambinder LLP
111 Broadway, Suite 1403
New York, NY 10006

For Defendants: William Henry Healey, Esq.
Phillip G. Ray, Esq.
Mandelbaum Salsburg
155 Prospect Avenue
West Orange, NJ 07052

SEYBERT, District Judge:

Pending before the Court is Plaintiffs' motion to conditionally certify a "broader" FLSA collective action than the class the Court preliminarily certified on June 6, 2010. For the foregoing reasons, that motion is GRANTED.

DISCUSSION

On June 6, 2010, the Court granted in part, and denied in part, Plaintiffs' motion to preliminarily certify an FLSA collective action. Plaintiffs sought certification for an FLSA overtime action covering service employees at Defendants' 158 locations. But Plaintiffs submitted affidavits only from service employees who worked at J.C. Penny in Massapequa, New York, while submitting no evidence concerning employees at the other 157 locations. Accordingly, the Court preliminarily certified only a narrow collective action, consisting of service employees at that J.C. Penny. But the Court invited Plaintiffs to move to certify a broader class if they can "provide affidavits from employees who worked at several other job sites, and these affidavits attest to similar wage practices." Docket No. 27 at 6. Plaintiffs have now done so. Accordingly, nunc pro tunc to June 6, 2010, the Court hereby preliminarily certifies an FLSA collective action alleging overtime violations against Defendants, and covering all of Defendants' service employees, regardless of the location where they worked. As in the Court's original certification Order, the class and notice periods run from June 6, 2008 to the present.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York
August 3, 2010